

### Remarks

Applicant has carefully reviewed the office action dated July 31, 2003. Claims 1-3, and 5-29 are pending. Claims 9, 21, 22 and 28 are withdrawn from consideration. Claims 1, 11 and 29 have been amended. Claim 4 was cancelled. New claims 30 – 39 have been added.

### **Election/Restriction Requirement**

Applicant hereby affirms the provisional election made on July 18, 2003.

### **Claim Rejections—35 U.S.C. § 102**

Claims 1-8, 10-20, 23-27 and 29 were rejected under 35 U.S.C. § 102(e) as being anticipated by Green. Applicant respectfully traverses the rejection.

Claim 1 as amended recites an intravascular filter having an elongate shaft and a generally cylindrical filter having an inner containment and an outside. An expansion member is slidably disposed within the shaft, such that the expansion member is slidable into the inner containment of the filter to expand the filter. This contrast with Green where a structural wire when 30 is attached to the outside of filter 107. See Figures 9 and 10.

Original independent claim 11 recites means for aspirating embolic debris from the filter material. Original independent claim 23 and currently amended independent claim 29 recite the step of aspirating the filter material. Original independent claims 26 and 27 recite means for aspirating embolic debris from the filter.

Green does not disclose an aspiration lumen coupled to the filter, the step of aspirating embolic debris from the filter material, any equivalent structure or step, or any structure which could be used to aspirate the filter material. Green does not disclose a catheter having a lumen opening proximate the filter material which could be used to aspirate material. Refer, for example, to Figure 9 of Green. The distal opening of the lumens is sufficiently proximal the filter that those opening could not be used to aspirate the filter. Even if one were to add the to the embodiment of Figure 9 the distal openings into the lumen of Figure 2, that configuration would still be incapable of aspirating the filter because of the existence of more proximal openings. Any suction through the lumen would merely aspirate through those more proximal openings. In a lower volume filter such as that of the invention, the ability to aspirate material from the filter extends the useful life of the filter because material can be removed from the filter to avoid filling it and lessening the ability of the filter to perfuse blood or other fluid.

Because Green does not disclose each and every element of independent claims 1, 11, 23, 26, 27, or 29, Green does not anticipate the invention of these claims and applicant submits that these claims are in condition for allowance. Because claims 2-3, 5-8, 10, 12-20, and 24-25 depend directly or indirectly from one of the allowable independent claims and contain additional elements, applicant submits that these claims are also in condition for allowance.

Reexamination and reconsideration are respectfully requested. Notice of an allowance in due course is requested. If a telephone interview may be of assistance, please contact the undersigned attorney at 612-677-9050.

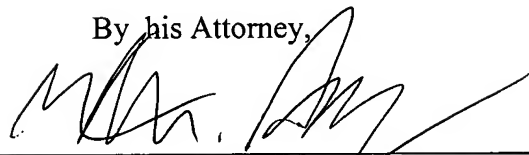
Respectfully submitted,

MARK T. UNGS

By his Attorney,

Date:

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